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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,579	10/18/2001	Masahiro Hashimoto	15006	7602
23389	7590	12/04/2006	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			JUNG, DAVID YIUK	
			ART UNIT	PAPER NUMBER
			2134	

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/982,579	HASHIMOTO, MASAHIRO	
	<b>Examiner</b>	<b>Art Unit</b>	
	David Y. Jung	2134	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 October 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/18/2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **CLAIMS PRESENTED**

Claims 1-30 are presented.

### ***Response to Arguments***

This responds to Applicant's filing of 10/23/2006. Applicant stated that the arguments filed on 2/7/2006 were not adequately addressed (in the previous Office Action) but the arguments filed 4/5/2006 were addressed. Applicant reiterated the arguments of 2/06 and 4/06 and did not add new arguments.

Thus, for the arguments filed 4/5/2006, see the previous Office Action.

For the arguments filed 2/7/2006, see the following paragraphs.

Applicant's arguments are presented in the Remarks section (pages 3-5) of the latest Response – which reiterates the arguments of 2/7/2006. At page <sup>3</sup>3, Applicant argues regarding Shimizu. One notes that Shimizu was cited by Applicant himself. Applicant appears to have been distracted by a typewriting error by the Office. Thus, the Office corrects the error and Applicant is hereby given another Final Action. Please see section "Problem to be solved", i.e., detecting embedded information. Please also see section "Solution", i.e., in the case of the detection, ... the stored observed amount is compared ... to detect ...

As for Shimizu not teaching "adjusting a ... interval," this appears to be a mistake on part of Applicant. Actually, Kato cited for that purpose. The Office clearly noted that

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Shimizu was not cited for teaching that feature. Applicant does not appear to dispute that Kato teaches "adjusting a .... interval."

As for Takahashi, Applicant states: "Takahashi makes no mention of copyright data." This is clearly erroneous on part of Applicant. Please see cited portions of

~~Takashi~~: Takahashi.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Even if (as at the first full paragraph of page 4), Applicant believes that there may be some advantage in the secondary references being used in different ways than as noted in the rejection, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Thus, the claims remain rejected.

## CLAIM REJECTIONS

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

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to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP11077540 (cited by Applicant, Shimizu et al.) and JP07267765 (cited by Applicant, Kato) and JP09178119 (cited by Applicant, Takahashi).

Regarding claim 1, Shimizu teaches "An electronic watermark detection device having an electronic watermark detection means for detecting an electronic watermark inserted into an image signal and indicative of at least ..., comprising: detection result adjustment means for ... a detection ... of said electronic watermark based on a detection result of said electronic watermark detection means. (section "Problem to be solved", i.e., detecting embedded information; section "Solution", i.e., in the case of the detection, ... the stored observed amount is compared ... to detect ....)."

These passages of Shimizu do not teach "copyright information" in the sense of the claim.

Takahashi teaches "copyright information (Problem to be solved section)" for the motivation of effective adaptive processing of image (Problem section, which discusses the problem of image quality deterioration and which discusses a device that embed copyright information).

These passages of Shimizu do not teach "adjusting a ... interval" in the sense of the claim.

Kato teaches "adjusting a ... interval (Solution section, i.e. sub-code performed only when the control information changes by detecting)" for the motivation of shortening processing time (Problem section).

Hence, it would have been obvious to those of ordinary skill in the art at the time of the claimed invention to modify and to combine the references for the motivation noted in the previous paragraphs so as to teach the claimed invention.

Regarding claim 2 (accumulating result, etc.), such particular features are well known in the art for the purpose of effective data monitoring. Regarding claims 3-10, such particular features are well known in the art for the purpose of effective data monitoring and control.

Regarding claims 11-30, these claims are analogs (e.g., claims 11-20 are method analogs) to claims 1-10. For the reasons noted in the rejections of claims 1-10, these claims are not patentable.

### ***Conclusion***

The art made of record and not relied upon is considered pertinent to applicant's disclosure. The art disclosed general background.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Points of Contact***

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

(571) 273-3836 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Jung whose telephone number is (571) 272-3836 or Jacques Louis-Jacques whose telephone number is (571) 272-6962.

David Jung

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Patent Examiner

11/19/06

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.